



Office of
the Schools
Adjudicator

Determination

Case reference: VAR2374

Admission authority: Warwickshire County Council for Park Hill Junior School, Kenilworth

Date of decision: 22 November 2023

Determination

In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Warwickshire County Council for Park Hill Junior School, Kenilworth for September 2024.

I determine that the published admission number for admission in 2024/25 shall be 33.

The referral

1. Warwickshire County Council (the local authority (LA)) has referred a proposal for a variation to the admission arrangements for September 2024 (the arrangements) for Park Hill Junior School (the school or PHJS) to the adjudicator.
2. The school is a community school for children aged 7 to 11 in Kenilworth, Warwickshire. The school was judged to be 'Good' by Ofsted in 2022.
3. The proposed variation is for the reduction of the Published Admission Number (PAN) from 66 to 33, for 2024/25 only.

Jurisdiction and procedure

4. The referral was made to me in accordance with section 88E of the School Standards and Framework Act 1998 (the Act) which deals with variations to determined arrangements. Paragraphs 3.6 and 3.7 of the School Admissions Code (the Code) say (in so far as relevant here):

“3.6 Once admission arrangements have been determined for a particular school year, they cannot be revised by the admission authority unless such revision is necessary to give effect to a mandatory requirement of this Code, admissions law, a determination of the Adjudicator or any misprint in the admission arrangements. Admission authorities may propose other variations where they consider such changes to be necessary in view of a major change in circumstances. Such proposals **must** be referred to the Schools Adjudicator for approval, and the appropriate bodies notified. Where the local authority is the admission authority for a community or voluntary controlled school, it **must** consult the governing body of the school before making any reference.

3.7 Admission authorities **must** notify the appropriate bodies of all variations”.

5. The LA has provided me with confirmation that the appropriate bodies have been notified. I have seen confirmation that the school’s governing board has been consulted on the proposed variation. I find that the appropriate procedures were followed, and I am also satisfied that the proposed variation is within my jurisdiction.
6. In considering this matter I have had regard to all relevant legislation, and the School Admissions Code (the Code).
7. The documents / information I have considered in reaching my decision include:
 - a. the referral from the LA dated 16 October 2023, supporting documents and further information provided at my request;
 - b. the determined arrangements for 2024/25 and the proposed variation to those arrangements;
 - c. comments on the proposed variation from the LA and school; and
 - d. information available on the websites of the LA, the school, the Department for Education (DfE) (including ‘Get Information About Schools’ (GIAS) and ‘Schools Financial Benchmarking’ (SFB)) and Ofsted.

Consideration of proposed variation

8. Paragraph 3.6 of the Code (as above) requires that admission arrangements, once determined, may only be revised, that is changed or varied, if there is a major change of circumstance or in certain other limited and specified circumstances. I will consider below whether the variation requested is justified by the change in circumstances.
9. The LA has a duty to make sure that there are sufficient places for the children in its area. To fulfil this duty the LA assesses the likely future number of places to be needed and plans to meet that need. The LA uses planning areas, which are geographical areas and the schools within those areas, for this purpose. The school is one of nine schools in the

LA's 'Kenilworth' primary planning area (the planning area). The other eight schools in the planning area are (in order of distance (in miles) from PHJS's postcode in brackets taken from the DfE's GIAS website): St Nicholas CofE Primary School (0.49); Thorns Community Infant School (0.51); St Augustine's Catholic Primary School (1.02); St John's Primary School (1.1); Clinton Primary School (1.19); Priors Field Primary School (1.38); All Saints Church of England Academy (2.24); and Burton Green Church of England Academy (2.67). PHJS is the only junior school in the planning area and is federated with Thorns Community Infant School, in the Park Hill Thorns Federation (the federation). The PANs for the schools in the planning area between 2021/21 and 2025/26 are shown in Table 1. The PANs for all schools other than PHJS are for Reception Year (YR) and Year 3 for PHJS.

Table 1: PANs for the schools in the planning area between 2021/21 and 2025/26

Schools in the planning area / PANs	2021/22	2022/23	2023/24	2024/25	2025/26
St Nicholas CofE Primary School	60	60	60	60	60
Thorns Community Infant School	30 *	60	60	60	60
St Augustine's Catholic Primary School	30	30	30	30	30
St John's Primary School	30	30	30	30	30
Clinton Primary School	30	30	30	30	30
Priors Field Primary School	30	30	30	30	30
All Saints Church of England Academy	20	20	20	20	20
Burton Green Church of England Academy	15	15	15	15	15
Total number of places in YR	245	275	275	275	275
PHJS	66	66	66	66 **	66
Total number of places in Year 3	311	341	341	341	341

Note: the PANs for schools in 2025/26 have yet to be determined.

Key:

* The PAN at Thorns Community Infant School was reduced for YR in 2021/22 because of the reduction in the number of children in the area in that year.

** The children from YR in Thorns Community Infant School in 2021/22 will reach Year 3 in 2024/25. The current determined PAN of 66 is likely to result in a sizeable surplus of places at the school. If I agree to the variation requested for the school for 2024/25, this would reduce the number of places in the planning area to 308.

10. The school told me that:

"Park Hill is federated with Thorns Community Infant School. Both schools are two-form entry schools and typically admit close to the PAN in each cohort. However, in 2021 the Reception intake at Thorns was half the usual number and the school unexpectedly admitted 31 children in September, which rose to 33 children in

January 2022 (just prior to the schools adjudicator agreement to restrict the intake for this cohort). For two years the school ran one class of 16 and one class of 17 pupils as it was not possible to mix the cohort with the year group above or below as these were both full. The financial cost of this has resulted in significant budgetary costs to the school, a deficit budget and an inequitable spend on the pupils currently attending.

Since the governing board are very much aware of this situation and looking to work strategically in the best interests of the school and its pupils we seek to avoid a repeat occurrence at Park Hill Junior School in the coming year, hence the request for a variation in the PAN for the 2024 cohort only.”

11. The LA told me that the lower intake year at Thorns Community Infant School in 2021/22 was attributable to a low birth cohort in the planning area. The number of NHS registrations for the planning area for October 2022 were provided, and I have put that data into Table 2.

Table 2: NHS registrations for the planning area for October 2022

2024	YR	Year 1	Year 2	Year 3			
2023		YR	Year 1	Year 2	Year 3		
2022			YR	Year 1	Year 2	Year 3	Year 4
	Sum of Age 2	Sum of Age 3	Sum of Age 4	Sum of Age 5	Sum of Age 6	Sum of Age 7	Sum of Age 8
Kenilworth	226	202	268	233	255	298	297

12. The data in Table 2 show that there has been a drop in the birth rate which will affect the planning area in 2024/25 and that there will be a rise in the need for places in 2025/26. There are considerably fewer children currently aged 2 and 3. This will likely have the effect of reducing the need for places at the school from 2026/27.

13. The LA provided numbers of first, second and third preferences for PHJS for the years 2021/22 to 2023/24, which I have put into Table 3.

Table 3: First, second and third preferences for PHJS for the years 2021/22 to 2023/24

Years	First preference	Second preference	Third preference	Late preference	Total
2023/24	62	1	1	2	66
2022/23	65	3	5	1	74
2021/22	58	2	1	5	66

14. The LA told me that the percentage of the preferences in Table 3 from parents of children at Thorns Community Infant School has increased from 79 per cent in 2021/ 22 to 80 per cent in 2022/23 and then to 94 per cent in 2023/24. The majority of Year 3 intake to PHJS transfer from Thorns Community Infant School which typically has 60 pupils in Year 2. Thorns Community Infant School currently has a Year 2 cohort of 32. It is clear that an

increasing number of applications for places in Year 3 at PHJS are coming from within the federation, and this means that it is likely that the current Year 2 numbers are indicative of the number that PHJS can expect to admit in September 2024.

15. Reducing the PAN at PHJS to 33 will have the effect of reducing the overall number of places in Year 3 across the planning area to 308 in 2024/23. The LA provided data which showed that there would still be places in Year 3 overall. I have put this data into Table 4. I have also assumed that the number of children in Year 2 at Thorns Community Infant School currently is indicative of the number that can be expected to be admitted to Year 3 at PHJS in 2024/25 and added that to the table to provide a projected surplus.

Table 4: Data showing the current vacancies in schools in the planning area and how that might translate to a surplus when projected admission at PHJS in 2024/25 is taken into account

Schools in the planning area / PANs	PAN	Number on roll in Year 2	Vacancies
St Nicholas CofE Primary School	60	59	1
St Augustine's Catholic Primary School	30	22	8
St John's Primary School	30	28	2
Clinton Primary School	30	30	0
Priors Field Primary School	30	29	1
All Saints Church of England Academy	20	20	0
Burton Green Church of England Academy	15	12	3
PHJS	33	32	1
Total vacancies			14

Note: the PAN only applies to YR in the primary schools in the planning area; its inclusion in the table is as a useful indicator of the likely size of other year groups in the school.

16. The projected total surplus of 14 places in Year 3 in the planning area in 2024/25 would be 4.5 per cent of the total number of places (if I agree for the PAN at PHJS to be reduced to 33). The LA appears to consider that the reduction in PAN at PHJS will not affect the LA's ability to meet its duty to provide sufficient places in the planning area because there are spare places should they be needed.

17. Turning now to the school. I first looked at the school's financial position. This is because schools are funded, in large part, on a per child basis. A reduction in the number of children admitted, therefore, results in a reduction in income. I noted from the SFB website that in 2021/22, the school had an in-year balance of £66.3k and a revenue reserve of £183.2k. This is a relatively healthy financial position. I asked the school to provide me with evidence of the financial impact on the school if I did not agree to the PAN reduction requested. That means that the school would have to maintain the level of staffing and resources necessary to fulfil its current PAN. The school provided me with the current year's financial data and the data for the next four years. In respect of the current financial year, the school reported an in-year deficit balance of -£32.2k with a projected carry forward

of £109.2k. Looking further forward, in 2024/25, the in-year deficit balance is projected to be -£64.5 and the projected carry forward is £77.02k. By 2025/26, the school is projecting a deficit budget overall, which is not allowed by law. It is well known that school budgets are currently under pressure across the country. The school's financial projections are such that a reduction in PAN for Year 3 in 2024/25 will not in and of itself solve the financial problem the school faces, but will significantly help. The governing board of the school and the LA are concerned that continuing to staff and resource the school for a higher number of children than is currently being projected to be admitted is an unsustainable situation for the school. The school would be expected to work with the LA to ensure a balanced budget. That is why the school are supporting the LA's request for this variation.

18. I asked the school for the number of children currently in each class. This allows me to look at how the school organises its classes, to see if mixed-age classes might be a solution to reduce costs as income declines as a result of falling admission numbers, rather than reducing the PAN. I have put those numbers into Table 5 (the total number of children on roll at the school at the point the numbers were provided was 259).

Table 5: Numbers of children in each class in the school (as of 8 November 2023)

	Year 3	Year 4	Year 5	Year 6
Class 1	32	32	33	33
Class 2	31	32	33	33
Totals:	63	64	66	66

19. I also asked the school to provide me with information on how the school would be organised if the variation is agreed and if it is not agreed. I have put that data into Tables 6 (variation agreed) and 7 (variation not agreed). I have had to make some amendments to the data provided to reflect the movement of classes up one year, which the school had not taken account of in its return (this does not affect what the data show).

Table 6: Numbers of children in each class in the school in 2024/25 (if variation agreed)

	Year 3	Year 4	Year 5	Year 6
Class 1	33	32	32	33
Class 2	0	31	32	33
Totals:	33	63	64	66

Table 7: Numbers of children in each class in the school in 2024/25 (if variation not agreed)

	Year 3	Year 4	Year 5	Year 6
Class 1	17	32	32	33
Class 2	16	31	32	33
Totals:	33	63	64	66

20. It is clear from the data that, if I do not agree to reduce the PAN in Year 3, the school would need to run two Year 3 classes which would be economically unviable. This is because it would require the substantial cost of another teacher, potentially another teaching assistant and other costs associated with running two classrooms as opposed to one.

21. About organising its classes into mixed-age groups, the school told me:

“The governing body has considered mixing the classes in Years 3 and 4 in the next school year but this would not provide a solution if the PAN is not reduced.

Mixing the classes in Years 3 and 4 would create three classes of mixed age children with 32/33 pupils in each class. The year groups would remain open to other children joining the classes and this is a typical intake pattern for Park Hill so very likely. If more than 2 children joined the Year 3 and/or Year 4 cohorts we would exceed 33 in a class. The physical capacity of the classroom is 34 children so if more than 5 children joined either of the year groups we would need to look at creating a new class. This would very disruptive mid-year and is a very real possibility.

Creating mixed-age classes would cause additional workload for teachers as the school curriculum would need to be re-written for these classes for one year only. The school would need to rewrite the curriculum as we do not normally run with mixed classes or run a two-year curriculum.”

22. I can see that employing mixed-age classes at PHJS is not the school's preference and in fact would not solve the problem caused by the reduction in the number of children admitted to Year 3 in 2024/25 and the resulting reduction in income.

23. It was clear from the data provided by the LA, that it has a picture of projected demand in schools in the planning area. Therefore, it appeared to me that the matter raised in respect of the PAN at PHJS and the surplus places in the planning area in 2024/25 would have been obvious in enough time for what has been requested to have been dealt with through the consultation process prior to the determination of the 2024 arrangements. I raised this concern with the LA. Its response was:

“The LA acknowledges this oversight, it was intended that the PAN be set to 33 in the 2024 admissions arrangements that were consulted on. This was an error that we are seeking to rectify by this application.”

24. There is no formal consultation required for a variation and so parents and others do not have the opportunity to express their views. Once the PAN has been set for a particular year then no body, except the governing board of a community or voluntary controlled school, can object if that PAN remains the same in subsequent years. Clearly it is desirable that PAN reductions are made via the process of determination following consultation as the consultation process allows those with an interest to express their views. It also allows for objections to the adjudicator. None of this is afforded by the variation process.

25. The LA's response to my challenge about the variation request is honest, and one which shows that it has recognised and is attempting to correct its oversight through this variation request. It would be unfair to the school and the LA to be punitive by rejecting the request on the basis of a mistake; undoubtedly the LA will endeavour to take such matters into account in future consultations to avoid having to make variation requests to the adjudicator.

26. As the arrangements for 2025/26 have not yet been determined, reducing the school's PAN from 66 to 33 in 2024/25 will have the effect that the PAN is 33 indefinitely (unless it is increased as permitted under paragraph 1.3 of the Code or reduced further after an approved variation or a consultation). I raised this with the LA. The response was that:

"Park Hill Junior School's PAN will be set at 66 in the 2025/26 admissions arrangements through consultation."

27. I stress here that paragraph 1.3 of the Code makes clear that an admission authority is "not required to consult on their PAN where they propose either to increase or keep the same PAN". However, there is nothing to say that an admission authority cannot do so.

28. I have tried to ensure that I have considered the competing needs of providing the school places that parents want for their children and the financial viability of the school. If the PAN for the school is not increased again for admission in 2025/26, I calculate that there will not be enough places in Year 3 in the planning area. Table 2 includes data which show that there are 35 more children of the age that will need places in Year 3 in 2025/26 in the planning area than for 2024/25. The LA will therefore need to provide over 20 places more in the planning area (if the surplus shown in Table 4 is replicated) in 2025/26 than there would be in 2024/25 if the PAN at PHJS is reduced. It is highly unlikely that the LA would not take the steps necessary to ensure that can fulfil its duty to ensure a sufficient number of places in the planning area. In any event, the LA is not reducing the capacity of the school to take a larger number of children (for example, by physically removing a classroom). The capacity will therefore remain and the LA will be able to increase the PAN to meet future need.

29. I determine that the LA has provided compelling evidence that it will be able to manage school places in the planning area by reducing the PAN at PHJS. The reduction in PAN will also provide the school with the certainty it needs to be able to effectively address the impact on its finances resulting from the decrease in income. The LA has also provided me with reassurance that it intends to increase the PAN in 2025/26 to meet the projected rise in the demand for places. Agreeing to the request would not appear to frustrate the LA's duty to ensure a sufficiency of places in its schools in 2024/25 and beyond.

30. I therefore determine that the PAN at the school will be reduced from 66 to 33 for 2024/25.

Determination

31. In accordance with section 88E of the School Standards and Framework Act 1998, I approve the proposed variation to the admission arrangements determined by Warwickshire County Council for Park Hill Junior School, Kenilworth for September 2024.

32. I determine that the published admission number for admission in 2024/25 shall be 33.

Dated: 22 November 2023

Signed:

Schools adjudicator: Dr Robert Cawley